

request, a program where the District of Columbia has said they didn't want any more money, for that \$1 million, to give the impression they were somehow trying to put a damper on the investigations taking place is just the wrong message. For that alone, we should oppose it on both sides of the aisle.

In fact, I would hope, after listening to what I know the gentleman has maybe already paid attention to in the past in putting together this amendment, that he would actually consider withdrawing the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Let me just say, first of all, it is the President's requested number, but the District can use this money because of the students that are still waiting in line to make sure that they have a place and there is no waiting list.

Let me just add this. You are defending the Office of Special Counsel. The Special Counsel, just weeks after he came into office, removed any reference to discrimination on the basis of sexual orientation from the OSC Web site. He then testified before the Senate that he did not believe current law protects Federal employees from discrimination on the basis of sexual orientation, an assertion that flies in the face of decades of precedent and defies an Executive Order by President Bush.

Today, the Special Counsel is under investigation by the President's Council For Integrity and Efficiency and the Office of Personnel Management for claims that he retaliated against employees who complained about office policies, issued an illegal gag order, abused his hiring authority, discriminated against homosexuals, allowed political bias to influence enforcement of the Hatch Act, and forced senior career staff to relocate from OSC's Washington headquarters to a new regional office in Detroit.

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I would suggest that the gentleman go back and do his homework on this office. There are some sensitive issues they are dealing with. But I will tell you, this takes it back to last year's appropriation level, I think, or just about that level. More importantly, I think this money can be better spent on the students of the District of Columbia.

The Acting CHAIRMAN. The time of the gentleman has expired.

Mr. SERRANO. Mr. Chairman, I would say to the gentleman, had I not done my homework, you would have helped me do it, because you started out by telling us you wanted to help D.C., but then you did tell us that it was that you were having problems with the Special Counsel. Well, that is the issue. The issue is you want to get at the Special Counsel.

I am suggesting this is the wrong time and the wrong place to do it, because they are involved in very serious investigations, and the last thing we

need is for the public and the talk show hosts to say that Congress, because they won't say you or I, that party or this party, that Congress is trying to put a chill on these investigations.

During the hearings, for the record, we asked the D.C. Government if they wanted more dollars. We gave them the opportunity to tell us if they wanted more than the President's request, and they said no.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Chairman, can I ask my friend, what are the sensitive investigations he is referring to?

Mr. SERRANO. The Special Counsel has been asked to look at various issues, including violations of the Hatch Act.

Mr. TOM DAVIS of Virginia. Are there any particular ones you are referring to at this point?

Mr. SERRANO. All of the above.

Mr. TOM DAVIS of Virginia. They have been looking at these investigations for years. This amendment still gives them \$14 million to do that.

Mr. SERRANO. That is true.

Mr. TOM DAVIS of Virginia. Which is almost the number they had last year. In light of the record that has been compiled here, the investigation of GSA is complete. That has been forwarded to the President. That is no longer pending, so that is no longer an issue. I just wanted to make that clear on the record. This is not about that. This is about a number of other issues that have been concerns expressed from your side of the aisle as well.

Mr. SERRANO. If the gentleman will yield further, my point to the gentleman is he started his argument by saying he wanted to help the tuition program, but, in fact, he has a problem with the Special Counsel. I am suggesting hat for the good of this House, we should not be doing anything that appears like we are trying to chill.

Mr. TOM DAVIS of Virginia. We had to get the money from somewhere, and this seemed to me an appropriate place to take it.

I am no stranger to this program. I was the chief author of authorizing this legislation to begin with. So we are not taking it for some program. This is a program I had a lot to do with creating and feel strongly about it and feel it could use additional money. I think the District feels the same way. The fact the committee funded it at the President's level doesn't mean it couldn't use additional money and fund additional students.

Mr. SERRANO. If the gentleman will continue to yield, my point would be until at least one of those investigations has concluded, which has gotten quite a bit of publicity in this country and been discussed widely, we should not be cutting what is not a large budget.

Mr. TOM DAVIS of Virginia. The one the gentleman is referring to has been completed. It has been forwarded to the President, and they have no additional jurisdiction. For the record, we need to clear that up.

Mr. REGULA. Mr. Chairman, I yield back the balance of my time.

Mr. SERRANO. I yield back my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. TOM DAVIS).

The question was taken; and the Acting Chairman announced that the yeas appeared to have it.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I demand a recorded vote.

The Acting Chairman. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia will be postponed.

AMENDMENT OFFERED BY MR. MILLER OF NORTH CAROLINA

Mr. MILLER of North Carolina. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MILLER of North Carolina:

At the end of the bill (before the short title), insert the following:

#### TITLE IX

##### ADDITIONAL GENERAL PROVISIONS

SEC. 901. None of the funds made available by this Act may be used to implement Executive Order 13422.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from North Carolina (Mr. MILLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. MILLER of North Carolina. Mr. Chairman, I offer this amendment on my own behalf and the behalf of Ms. LINDA SANCHEZ of California.

Mr. Chairman, this amendment prohibits the use of funds to implement an Executive Order entered earlier this year. The Executive Order claims powers for the President over agency rule-making that is consistent neither with statutes passed by Congress nor with the Constitution.

There are safeguards on how agencies can use that power, their power of rule-making. Agencies are supposed to make rules in the public, with public participation, in the open, and citizens can sue an agency if regulations are too tough or too lenient.

Executive Order 13422 dramatically changes how rulemaking works and lets political appointees overrule the professionals at each agency in secret with no accountability to anyone. Decisions that are supposed to be made in the open can be made in closed rooms on the basis of improper political considerations, and often no citizen will know to sue to challenge a rule or more often sue to challenge agencies inaction because no citizen will know